

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: May 10, 2005

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division; Phil Schliesman, Licenses

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of May 9, 2005

The following actions were taken by the Planning Commission on May 9, 2005. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Present: President Martin, El-Hindi, Henry-Blythe, Krause, Krueger, Kummer, LaShomb, Motzenbecker, Schiff and Tucker – 10

2. Paloma Partners, LLC (VAC-1457, Ward 1) Ulysses Street NE north from Winter Street (Hilary Watson).

A. Vacation: Application by Paloma Partners, LLC to vacate the following right-of-way (Vacation file 1457): that part of Ulysses Street NE to wit; over that certain piece or parcel of land sixty-six (66) feet in width, the same being thirty-three (33) feet in width on each side of the east boundary of line of Lots 4, 5, 6, in Auditors Subdivision No. 115, Hennepin County, Minnesota, and extending from the north line of Winter Street NE to a line parallel with and distant 661.9 feet north of the north line of said Winter Street according to the plat of said Auditors Subdivision No.115, on file and of record in said Hennepin County Recorders office.

Action: The City Planning Commission recommended that the City Council accept the findings and **approve** the vacation application subject to the retention of an easement in favor of Xcel Energy and a sanitary sewer easement in favor of the City of Minneapolis for following right-of-way (Vacation file 1457): that part of Ulysses Street NE to wit; over that certain piece or parcel of land sixty-six (66) feet in width, the same being thirty-three (33)

feet in width on each side of the east boundary of line of Lots 4, 5, 6, in Auditors Subdivision No. 115, Hennepin County, Minnesota, and extending from the north line of Winter Street NE to a line parallel with and distant 661.9 feet north of the north line of said Winter Street according to the plat of said Auditors Subdivision No.115, on file and of record in said Hennepin County Recorders office.

President Martin opened the public hearing.

No one was present to speak to the item.

President Martin closed the public hearing.

Commissioner Schiff moved approval of staff recommendation (LaShomb seconded).

The motion carried 9 – 0.

10. Dan Niziolek (BZZ-2300, Ward 10), 3401 Irving Avenue South (Jim Voll).

A. Rezoning: Application by Dan Niziolek to rezone property located at 3401 Irving Avenue South from the R1A Single-family District to the R2B Two-family District.

Action: Notwithstanding staff recommendation, the City Planning Commission recommended that the City Council **approve** the rezoning application from the R1A Single-family District to the R2B Two-family District for property located at 3401 Irving Avenue South based on the following findings:

1. For most of its history, the lot had been zoned R2B;
2. The rezoning is consistent with the applicable policies of the comprehensive plan (this is a low density area containing both R1 and R2);
3. The lot does not seem to meet the intent of the large lot area requirements; and
4. The creation of additional housing options in this neighborhood is in the public interest.

Staff Jim Voll presented the staff report.

Commissioner Krause: I was surprised that there was not any communication from the East Calhoun Neighborhood Association. Nothing was received, or did they receive a presentation on it?

Staff Voll: I think the applicant could speak to that more. I believe he met with the neighborhood, but they did not send me any e-mail or letter.

Commissioner Schiff: Mr. Voll, I understand the purpose of the large lot area to protect areas around the lakes, but here, it seems like the line zig zags a little bit, that if the line went straight down Irving that would make more sense. What's the relationship between the 3400 block on Irving, specifically the east side - why that should be treated as part of a large lot district in context with the lake if it is clearly an entire block away from the lake. You can't even see it as you're driving around the lake or if you have a home on the lake.

Staff Voll: I don't know if I have a concrete answer for that. I don't think as staff we have time to do a study of whether this is appropriate in there, so I think that's a reasonable question to ask: Is this section of the city appropriate to be part of the large lot district? We did not have the time to do that evaluation. What I based the decision on was that the 40 acre study was done, although unfortunately, that 40 acre study cannot be found anymore on the city records, but it was done at one time to rezone this to R1. So I guess my opinion and staff's opinion was that when we did the research, there was a study that the city had done that deemed that this was appropriate to be zoned R1A, so we based on that. Does it mean that we couldn't revisit that issue? We could, but we did not have the time to do that. To wrap up, I do want to say that I enjoyed very much working with this particular applicant; he's a very fine gentleman.

President Martin opened the public hearing.

Dan Niziolek (applicant, 3401 Irving Avenue South, with Heidi Niziolek): Madame Chair and Commissioners, I thank you for the opportunity for us to address you today regarding our request to rezone our property. We'll quickly go through our request and application. I've prepared in your packet some fact of findings which hopefully you will adopt at the end of the public hearing. I would just go quickly through. Both Heidi and myself are long-time South Minneapolis residents. We love living in South Minneapolis and found this home in 2002. This is a property, when we moved in, was clearly not owner occupied. Every wall in this place was white. Rooms were interchangeable between bedrooms, offices and other living quarters. And there wasn't a tree on the property. Clearly, it's been a property that could be something much more than it is. And that's what Heidi and I are very excited about. We believe that by rezoning this property and doing the proposal that we'd like to see, we can make not only our home a better place for ourselves and our kids, but also our neighborhood a better place. Hopefully we can speed through this. As Mr. Voll indicated, this property is a legally nonconforming duplex. It was built in 1903 as a single family. Legally converted in 1943 into a duplex. That means all permits were pulled for an expansion to create a rear stairtower, the plumbing, the stairs that were cut out, the rooms that were changed. There are currently three kitchens, three bathrooms, many stairways that don't connect. You cannot get from one floor to the other except for the external stairtowers. So, clearly it's been turned into a multi-unit building and something that has then been dramatically impacted what it is. We think we can make it better and we're excited about that. The property, as Mr. Voll indicated, became legally nonconforming in 1977 when it was downzoned. Prior to that, it has always been zoned for a 2-unit building. And I will speak to it later, but we believe it was downzoned not in compliance with the rules that were used at the time of the downzone. In putting together our plan of what we wanted to do with our home, we based on a number of values. One is we wanted to enlarge the already large amount of

greenspace. It's got a great side yard; we want to increase the amount of greenspace. Two, we want to better utilize the lot. We don't believe and our neighbors to the north agreed - a 1,500 square foot parking pad with a 4-car garage and 600 square foot of storage space above it is not the best use of space in the Uptown area. Two [sic], as we want to retain the density and support the great transit service that we rely on. We are definitely transit dependent. We are a one car family. As well as all of the amenities that Uptown can provide. Three, we want to celebrate the character of the area, that's 34th Street has a character, as well as Irving, and how do we bring those two together. Five [sic], we want to create a strong connection between the front porches of our house and the pedestrian realm. Really trying to increase the desirability of the pedestrian realm. And we want to create more functional living spaces. That brought us to the idea of doing a 2-unit condominium building. With the expansion we'd be looking at, we'd replace the 4-car garage with a new parking pad and we'd be putting the parking under the new expansion. So we basically get rid of the garage, the parking pad, do an expansion – which as Mr. Voll mentioned, we are in the concept stages yet, and then put the parking underneath that. So you have a much nicer connection with the pedestrian realm. As I mentioned before, we are in the design phases. As I believe, when we look at a zoning change, we should look at the amendment being proposed and not so much project but have an idea what the project is intended to do. The design stuff, I will show you at the end some of the things we're thinking of. But the design we're showing gives the idea of operations, massing, orientations – to give you an idea of what we're trying to create there with interpretation to go in after that. In regards to the ECCO neighborhood, Commissioner Krause brought up – we had met with them back in February before we made application. Partially my fault not giving them the name of Mr. Voll as the Planner, but they did approve it at the neighborhood association. We've talked to many of our neighbors who initially expressed some concerns when misinformation went out, but we have a lot of support from our neighbors. Quickly, I'll go through the findings that are in your packet and then touch on the point that Mr. Voll raised. One, whether the amendment is consistent with the applicable policy of the comprehensive plan... I think there are a number of policies that Mr. Voll mentioned that this project does do. One, it preserves and strengthens the predominantly single and two family structure areas. Two, maintain and strengthen the character of the city's various residential areas (and we'll talk more about the character of our neighborhood). Three, Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that gives it the unique and urban character. Uptown is an Activity Center for the City of Minneapolis. We are less than a half a mile from the heart of Uptown at Lake and Hennepin. D, we want to strengthen the residential character of community corridors by developing appropriate housing types that represent variety and a range of affordability levels. Hennepin Avenue is a community corridor. E, something dear to my heart, support CPTED principles, including, orient new housing unit faced to the street to foster safe neighborhoods. F, Provide diversity of ownership housing opportunities. I think this is a very exciting infill project. And then finally, urban density is important to improving business markets, increasing the feasibility of urban transit systems, and encouraging the development of pedestrian oriented services and open spaces. This property lies within 2 ½ short blocks (east-west blocks) from a bus line that provides bus service every 5 to 8 minutes during rush hour (which is very unheard of in this city) as well as every 12 to 18 minutes in non-rush. As well as this property is less than a half a mile from Lake and Hennepin, the heart of Uptown. Now the issue Mr. Voll raised, the large lot district, was the issue whether it's in

conflict with the provision in the subdivision about large lots. We question the applicability of the large lot provision raised by staff in regards to our property and we offer three reasons. First, we are not seeking a subdivision. Two, if in fact it is off the goal, which we do question yet, to the character of the area, any application for a subdivision could be easily rejected based on the first finding required in the subdivision which is the subdivision is in conformance with these land division regulations, the applicable regulations of the zoning code, and policy of the comprehensive plan. So clearly, I don't think it should be a reason to not allow us to do rezoning to allow us to create a 2-unit condominium building on our property. The third factor which I think is also important for a variety of things is the large lot provision from the subdivision ordinance does not support the character of the area surrounding 3401 Irving Avenue South for three reasons I'll raise. One, if you look at all the single and two family lots within 350 feet of our parcel, only three could ever be subdivided based on the zoning code requirements. If you looked at all the properties in the R1A zoning within... All the single and two zoning lots within 350 feet in the R1A zoning, only two could be subdivided based on subdivision ordinance regulations. The most important part of that is the frontage requirement which is 40 feet. So if you look at it, if in fact we are trying to protect large lot districts, that really refers to what I consider which is the large lot districts around other lakes which has the wide fronts. What you see in this area is the fact that you have deep lots based on geography. If you have a round lake, coming up against a straight grid system, you're going to get long lots because you're not [tape unclear] all the streets. If you look at this, I will show you this is our parcel right here, this lot here could be subdivided and that one. Those are the only two of the 17 other parcels besides ourselves in the R1A within 350 feet that could be subdivided. This one and this one. In the 350 feet in total, it's this one, this one and this one. So it really doesn't speak to preserving the character. The character of our area tends to be a more traditional frontage of 40 to 60 feet which you see in most neighborhoods. It's not a large lot lake district that you normally think of which is the large fronts and the large houses. Those could be subdivided because you would have 80 foot frontage which allows you to split it into a 40 and a 40. So that's the first reason we raised the fact that the character of the area isn't what is usually looked at in terms of preservation of large lot lake districts because you can't subdivide these lots. Very few of these lots could ever be subdivided based on subdivision ordinances. Another thing is, and I think Commissioner Schiff raised this issue, is how the two areas come together. You do have the lake here, but you also have 34th Street. And you look at 34th Street, you can look at the number of lots that are less than 5,000 square feet which is the standard lot size. So you have the category of large lot districts, but I also think we need to celebrate those small lot districts too which really creates the character of the Uptown area. You have a lot of houses on less than 5,000 lots. If you walked down 34th Street from our parcel across the street, prior to them getting a vacation of the street right of way, as well as the trolley line right of way, this was like a 5,000 square feet, this property is under 5,000 square feet, this one's under 5,000 square feet, this property is under 5,000 square feet, this one is under 5,000 square feet, and this one right here is a duplex. Under 5,000, under 5,000, under 5,000, under 5,000, under 5,000, under 5,000... So you see this character on 34th Street having a lot of less than 5,000 square foot lots, so we have large lot district characters, but we also have small lots. So, bringing those two together, which I think our project does by bringing a stronger presence in on 34th Street with the same strong [tape unclear]...bringing those two characteristics together. So we would contest based on these issues that the large lot provision in the subdivision ordinance really don't support the character

of this area because that's how it's being created. What's being created by the large lot provision is those large front lots which could potentially be subdivided if they're 80 feet wide or so. Moving right along. Then the next finding we'd have to make is whether the amendment is in the public interest and not solely for the interest for a single property owner. One, and we talked about this before, preservation of appropriate existing density is critical in supporting the strong urban amenities of the Uptown area including transit. Two, provides the opportunity for new housing which contributes to the unique urban character of Uptown.

President Martin: Council Member Niziolek, I don't want to be rude, but we have all of this in front of us, so if you could highlight the important things, that would be helpful.

Council Member Niziolek: So, I will just breeze through it. I guess I'll just jump to the character piece. And if there's any questions. I'm just usually overly thorough. My wife will probably attest to that. I will just walk through the character of 34th Street and give an example of the houses that you see on 34th Street in close proximity to ours. And what you're going to see is a very strong orientation with 34th Street. A number of these, like this house here, is on basically a postage stamp lot. The size of the house is the size of the property plus car parking. This is within one block. The property to the left of it is a duplex. If you look here, this is another property that literally is the same size as the house. You walk down... This is another property, very common that. So you see the character of 31st Street with smaller lots.

Heidi Niziolek: That one with the blue trim in the middle on the top, that's directly across the street from our proposed property. And that one and the one on the other side of the alley there which are both very small houses – the property owners are very excited about looking at our house and not a big 4-car garage.

Council Member Niziolek: So, that would be the character of 34th Street. Then if you go to Irving, which raises the issue of the large lot district, which will give you a couple of snapshots of what we're looking at and you'll clearly see much more of a common type feature of having houses in the 40 to 60 frontage dimension. The strong 2 ½ story houses until you get to the southern part and then you get into 1950 developments. But the northern half is what we want to reflect which is the 2 ½ story developments retaining a strong presence on Irving. I'll jump to the design piece. Across the street, as Heidi mentioned; on the corner then was the duplex I referred to before; directly across is a single family; then continuing another single family; and then another single family. All of these are on a sub-standard lot as according to some definition I consider small lot which I think are valuable characters of our city. Then real quickly on the design issue – which is something we've talked about. We've presented a one concept design, but just to give you the sense of how something like that might look... This is a property up in East Isles just a little bit north of us where you have definitely a larger structure than ours and then a single family house up against that. But you can see how these two could be married with common architectural and create the green courtyard that we're talking about between our properties as a way to create a great pedestrian experience coming down the street as opposed to our current situation where you have this huge gap and you get this large parking pad and parking garage. You would have a much more desirable and enjoyable pedestrian realm where the front porch embraces the pedestrian realm versus the gulf of parking sea sort of swallowing

that up. Another part of the concept that we've looked at too is to do sort of like this is one block south of us where what you have on the front here is a front door for this unit and then on the side is a separate address for a second unit. All part of the same structure. As well as this as a similar idea with a front door and a side door. Where you could clearly distinguish and celebrate a porch-like environment on both sides as this structure also does. Some of the concepts. Some of the features that we like in terms of the on-street parking on 34th Street – I found this house yesterday just north of our place. This is ideally what we'd like to see with the underground parking going in. We could have a porch and really make a nice strong connection to the pedestrian realm, put the parking where I like to put cars below ground – not people. People belong in housing. So, really putting the parking underground, creating a housing unit, creating and retaining the density that makes our neighborhood what it is which is the Uptown area, I think would make it very successful. So I will end with that and if there are any questions...

Commissioner Schiff: Council Member Niziolek, are you opposed to subdividing the lot because it seems that would be more consistent to just go ahead with a clean subdivision and have a home that faces 34th similar to the character of 34th Street.

Council Member Niziolek: I would not be opposed to that. That would be something we'd be willing to consider.

President Martin: Others who wish to speak to item number 10.

No further requests to speak to the item.

President Martin closed the public hearing.

Commissioner LaShomb: I'm going to move the rezoning (Krause seconded). Looking at this, I think the large lot district issue doesn't really apply on this situation because I guess looking at the map I have I only see one lot that potentially... maybe three, but 3427 looks like if they wanted to tear the house down they could probably split that lot. Across the street from 3401 at 3400, 3408, the long lots. I don't know what's going on at 1618 and I guess 3450 and that's a nursing home so that's split isn't it? It has a lot of units in that building. In any event, I just think my logic to this is pretty simple and that is you've got R2B basically beating on the door here and extending it over to another house isn't in my sense going to be harmful to the neighborhood. So, I think it's a reasonable use of property and to achieve it by rezoning is appropriate.

President Martin: Further discussion? All those in favor of the motion to approve the rezoning, please signify by saying aye.

The motion carried 9 – 0.

President Martin: Jason, could we use some help with findings?

Commissioner Schiff: I don't think it requires much creativity. I think it's pretty straightforward that the lot used to be zoned R2B up until... for most of its history. So we are recognizing that I think today. I think it is consistent with the applicable policies of the comp plan. This is a low density area, both R1 and R2 zonings consistent with low density areas. This thing about the large lot is not explicitly said in the comp plan that this is a large lot area and this part of the 3400 block of Irving just does not seem to meet the intent of the large lot area which is to preserve the large lots fronting lakes and to stop them from being subdivided for smaller homes and we're a good block away with lake views from this block here. I think the fact that it was an R2B lot previously makes it, as staff said, the other findings were pretty much in the applicant's favor. And that creation of additional housing options in this neighborhood is in the public interest.

11. U Garden Restaurant (BZZ-2290, Ward 2), 2725 University Avenue SE (Michael Orange). This item was continued from the April 25, 2005 meeting.

A. Rezoning: Application by Chun Keath and Guenkeng Trann Ung for a petition to rezone the site from OR2, High Density Office-Residential District, to C3A, Community Activity Center District to expand the existing U Garden Restaurant located at 2725 University Ave. SE.

Action: Notwithstanding staff recommendation, the City Planning Commission recommended that the City Council **approve** the rezoning petition for the U Garden Restaurant expansion project at 2725 University Ave. SE based on the following findings:

1. The application is close to an activity center;
2. The property is adjacent to future light rail transit;
3. The University of Minnesota does not have any strong boundaries of where it ends; and
4. The building has always been a commercial building.

B. Variance: Application by Chun Keath and Guenkeng Trann Ung for a front yard variance for the property located at 2725 University Ave. SE.

Action: The City Planning Commission adopted the findings and **denied** the front yard variance application for the U Garden Restaurant expansion project at 2725 University Ave.

C. Variance: Application by Chun Keath and Guenkeng Trann Ung for a side yard variance for the property located at 2725 University Ave. SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **approved** the side yard variance application for the U Garden Restaurant expansion project at 2725 University Ave based on the finding:

1. The side yard setback would match the side yard of the existing building.

D. Variance: Application by Chun Keath and Guenkeng Trann Ung for a parking variance for the property located at 2725 University Ave. SE.

Action: Notwithstanding staff recommendation the City Planning Commission **approved** the parking variance application for the U Garden Restaurant expansion project at 2725 University Ave. SE based on the findings:

1. The property has access and proximity to future light rail and other transit;
2. The University of Minnesota is a commuter campus; and
3. The use is complimentary.

E. Site Plan Review: Application by Chun Keath and Guenkeng Trann Ung for an amendment to the prior-approved site plan review (PR-500, approved on 4/19/99) for the property located at 2725 University Ave. SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **approved** the site plan review application for the U Garden Restaurant expansion project at 2725 University Ave. SE based on the following finding:

1. With the rezoning and with placement of a building entrance at the front of the building, the project complies with the site plan review standards.

And subject to the following conditions:

1. The project shall meet the entrance, landscaping and fenestration requirements, including moving the side entryway to the front or southeast corner.
2. Approval of the final site, landscaping and dumpster enclosure plans by the Department of Community Planning and Economic Development – Planning Division.
3. All site improvements shall be completed by May 9, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Staff Michael Orange presented the staff report.

Council Member Schiff: Two questions. Is light rail supposed to be above ground at this point?

Staff Orange: [tape unclear]

Council Member Schiff: This, in front of this property? And number 2, is C3A the only zoning that gets the applicant the square footage and the use that they want, or is there other commercial zoning that allows them to do that?

Staff Orange: I was going to get to that, but it's a perfectly good time. This slide shows you some of the factors that would play into whether a rezoning is appropriate. Again the site is highlighted red. The BRT (bus rapid transit) is located at 29th Avenue. And you can see that's the better part of a block... you can't really talk about blocks in this area – they don't line up too well, not a normal city block. But it's just to the east, down University Avenue. Another station would be over at Oak, run down Washington, crossing Oak, line up then north of the site along the transit way, traveling to the southeast, come down on 29th, back to University. The tunnel begins just underneath (I've got a map in here, I can check that) to the west of here.

Council Member Schiff: That answers it thanks.

Staff Michael Orange presented the remainder of the staff report. He also noted that rather than 52 parking stalls as noted in the report that there were 58 stalls, so the variance listed at 16 would go down to 10.

Council Member Schiff: Mr. Orange, I don't think you answered the other question I had earlier. What is the lowest density in the commercial area that would still allow this use?

Staff Orange: We looked at C1, C2... Are lower districts that would be possibilities. C1, of course... I'm going to take you back to the three things that you're looking for: eliminate the nonconformity, allow general entertainment, and third, the expansion itself. And the expansion is acceptable in all three of those zones. C1 does not allow general entertainment – it's limited entertainment which is what they're bound by now. Therefore, you're down to C3 or C2. C2 brings in all of the uses associated with the automobile with the drive-through. No one wanted that one, so we moved to the next one.

Council Member Schiff: OK. Great. Thanks.

Commissioner Tucker: Just one question about the setback of adjacent buildings. On the west, is it lined up with U Gardens right now? Is that setback 15 feet.

Staff Orange: I'll show you that. This slide is also in your report. You can see the U Garden here and the office to the west meets that setback requirement. It is lined up currently. The post office to the east is setback more. I think it's about 25 feet instead of 15.

Commissioner Tucker: How about Park Place office to the east. The hexagonal building.

Staff Orange: That's up, very close to the property line.

President Martin opened the public hearing.

Spencer Ung (applicant, 2725 University Avenue SE): For years, our customers have been requesting a larger room area for private parties and for general entertainment. They like our food and the location is central to all major highways. We would also like to make use of this valued property. Currently, there is a lack of private party in the U of MN and surrounding Minneapolis area. The purpose of the expansion is to capture more of the private party reservation which includes but not limited to birthdays, anniversaries, wedding receptions, private charity events and also for cultural events. Due to the small size of the building and general entertainment restrictions of the zoning, we are losing private party business to St. Paul, Little Canada and Shakopee in Asian restaurant markets. We have a large sized parking lot area and a small size building which could be better utilized with the expansion of the building and rezoning. This would maximize the benefit of the area and the restaurant. With expansion, it would provide for a more affordable meeting place for the general public as an alternative to expensive hotel meeting rooms. This would also provide for an activity center for cultural events and a welcome place for visitors of small and large groups. In regard to rezoning, currently the OR2 has restrictions of maximum 30 seats, no serving of alcohol, and maximum building size of 2,000 square feet. We already exceed these limits. Also, with the OR2 zoning with what we have with the current building, if the building were to ever be destroyed by fire or natural disaster, we couldn't build to the same place as we would with the C3A zoning and the nonconforming use. With the C3A, it would be in compliance with all of the OR2 zoning restrictions without getting special nonconforming use permits. It would bring the existing zoning code up to date with the current and proposed business use and building requirements. It would provide for cultural events and private parties for general entertainment. C3 also limits and addresses the community concerns of potential uses of the property versus C2. I believe in the 1980's when they started to rezone everything, they should have spot zoned properties for their particular uses. The restaurant property had over 30 seating already in that place and therefore should have been considered for other zonings such as the C3A district. Instead they lumped everything together into a block and made it OR2. There is one person who is against the proposal and that's Daniel Porter. He's the person that owns the property in the back yard. I spoke to him and his main concern was the property value going up. The property value is going to go up anyways due to the LRT coming through and the future stadium building. In regards to the front yard variance, with approval of the C3A zoning, this would ease the setback restriction to zero feet. It would not alter the locality in any negative way nor block any enjoyment of other properties. Both side neighbors approve the addition. These are neighborhoods around. I took pictures within 3 block area west and east of the neighborhood. I couldn't measure where the property lines were, but I measured from the sidewalk where they were. In regards to up front and variance there, we're going to go 9 feet, 8 inches from the sidewalk with the proposed addition. I measured all the buildings within a 3 block area. I found that all the buildings are even closer to the sidewalk than we are. [While showing slides] University Parkway, Minnesota Teamsters, Western Bank, Twin Cities Co-op. As you can see, it's 8 feet for Alliance Care, Frasier has 8.5 feet, Architectural building and Cupcake have 7 feet, 6 inches, Tierney Brothers has 7 feet, 6 inches, Genereno's has 7 feet, 4 inches. I think you get the main point I can show in

slides. All of these areas within 3 blocks... What we're proposing is 9 feet 8 inches from the sidewalk and all these buildings I am showing to you are closer to the street than what we are. Therefore, we should get a variance for the front setback. This is a list of all the places I have gone through and checked. Notice these are all measured from the sidewalk area. With our proposed addition, it would be up to the sidewalk, consistent with the development objective of the University/29th transit corridor. Compared to other buildings on University, it would blend in very well with the neighborhood. If you see from the pictures, the setback of the various buildings, the 15 foot setback requirement should be waived as other buildings are closer to the sidewalk than what we are proposing. Why we can't build to the back of the restaurant is due to a hardship of the existing building. We can't build to the back of the restaurant because when you're having a party like a wedding reception, you don't want to split the parties into the back and to the front. You want the whole party together in one room. That's what we're proposing. The addition would provide a facelift to the entire area. This is what the building would look like [showing slide]; this is from the side and front angle. With the addition, it would provide a facelift to the building area – one that is more inviting, one that looks like an actual restaurant – not a rectangular building. You go to lots of restaurants that are just rectangular with a restaurant sign. This one would actually look like a restaurant that's inviting to the area. It's more diverse in design. The top of the design was taken from China – the arch and the top roof part – from the Forbidden City. The entrance to the side of the building which is here – we created that to have crowds take a picture in front of the building with two posts and decorative designs on the sides. There will be a dragon and a phoenix on the top of the arch there. The addition would blend in with the neighborhood surroundings very well. Not granting the variance would cause undue hardship to the general public who are requesting [tape end] ... to accommodate these needs as an entertainment place for their wedding receptions, company parties, [and] graduations. Undue hardship is measured by ease of location, affordability versus booking through hotels and the enjoyment of entertainment which is immeasurable. In regards to parking, there's plenty of parking on our lot. On a daily basis, the lot is not full and we do not expect this to be full during the daytime. The only time the parking lot is full when we have these private parties. Therefore, we have a shared parking agreement with our neighboring office property which holds 153 parking spaces. With a shared parking agreement, it promotes mixed land use, limits the need for creation of additional stalls and provides adequate off-street parking. There is public parking in back of the restaurant a hundred feet away and that's available 24 hours a day also. So we don't feel the need to contract for 10 more parking stalls when there's a public parking area in back of the restaurant already. In regards to the front entrance variance, it wasn't in the packet that I received all my reasons... I'm going to give you my reasons we should be waived of the front yard entrance. The front yard entrance is located on the side of the entrance facing the driveway in order to decrease the number of customers running off without paying for their meals and to be easily accessible for pedestrians and commuters. You have a lot of college students and different types of people coming into the restaurant all the time. Similar to a gas station, the layout of the area, the front entrance, the cash register, the staff location, is key to prevention and control of theft and customer behavior. By having the entrance located in the middle of the building facing the driveway, staff is better able to control customer conduct and safety. The request for change in zoning is consistent with the applicable policies of the comprehensive plan. It encourages mix and intensity of land use with no negative impact to the residential area. It brings the building closer to the street, providing pedestrian friendly building

access. The building design enhances the designs features of the area and gives it a more unique and urban character. This promotes the Southeast Minneapolis Industrial Area project framework for having an intense urban district which is both economically viable and compatible with the character and tradition of surrounding neighborhoods. It meets the development objective of [the] University/29th Avenue transit corridor. We are best using the land as it is a scarce resource. We are creating jobs, providing cultural offerings, general entertainment, creating a number of visitors to the area and creating livelier streets. With the private party, we expect to employ 4 to 6 additional employees. It creates non-work related activities and use to extend the life of the street during the evenings. This also promotes locally owned, neighborhood-oriented businesses like us to thrive. This is a matter of public interest and not the sole interest of a single property owner. Rezoning to allow the general entertainment is a matter of public interest. When it comes to a restaurant or a store, you cannot get any more public than that. It's like going to the DMV – you get upper class, lower class, everybody is entitled to go into the restaurant, so this is a matter of general public interest. It's kind of like you and your spouse or your family maybe going there one day to a party to enjoy this place. The general area around the block is mixed uses of zoning which C3A is compatible with the area. C1, C2, I1, OR2 and C3A districts are all within less than one block away from each other there. With the light rail station coming through on 29th and University, rezoning to C3A is even more appropriate. So I urge you from a locally owned property and business owner to look into this from the general public point of view. Think about the activity and joy this will bring to the area, job creation, and a diversity of building design with your approval tonight. We plan on being in this business and this property for the long term and passing this business on to another generation. Approving of this addition and rezoning would secure that. C3A is more appropriate for the property than OR2 and it reflects the current business also. Allowing rezoning and a variance for the slight difference from city zoning codes would not cause a negative impact to the neighborhood area but a positive one which will also allow a business to prosper and stay afloat. So I ask you to please approve the C3A zoning. Thank you.

Staff Orange: I may have misled you on my comments regarding site plan review. There is another... [showing slide] I neglected to state that the side entrance violates the site plan review requirements that call for the entrance on to the street, not on to the side. You'll note that there is the ceremonial front on University Avenue, but the main entrance to the building is on the side. It is currently on the side. Planning staff pointed out that it is possible to have a minimum of a corner entrance or ideally an entrance on the street. I suggested the applicant do that. The applicant is not willing to do that. That is the primary reason for the staff denial on the site plan review.

Florence Littman (Co-chair Zoning Committee, Prospect Park and East River Road Improvement Association): I am here to support the rezoning. I don't see any of you fainting. It's unusual isn't it? Actually, for the most part, PERRIA, we are very, very careful to go from a less intensive use to a more intensive use. And we look at things – we have a number of guidelines, we look and see if it is compatible. Is this something we really want in our community? Does it provide a needed service? Is the zoning such that if this use terminated, could we get something really awful? Which is why we don't like C2 for example. Now, this property has a long history. It started its life as a Judy's - fast food, then it became an Argyle's, then it became a

Periwinkle's and I can't remember what else it was. But it was certainly something that none of us liked. The building was horrible, the food was... well, we never went to it... But the building was awful. I don't care about the food. The building was awful. So when we pushed for our 40 Acre study in 1981, it was zoned industrial. The prior code was cumulative so an industrial area, you could have a restaurant. You could have anything lower. So we really, really wanted to get rid of it. We were hoping it would just wither away. And when we did our 40 Acre study in '81, it was rezoned to B1-2. It was a zoning that essentially made it a nonconforming use because our hope was that it would wither away. This is why you create a nonconforming use. You're hoping it can go away, it's going to disappear. Now they don't disappear so much because they can get an expansion of nonconforming use. Well, this didn't disappear and actually, it eventually wasn't fast food anymore. Eventually, first it became the Vietnamese restaurant and they closed the drive-through window. They didn't do anything to the building, but at least there was no drive-through there anymore. And they did some landscaping and it got to be much better. Well the new code came along in '99, 2000. None of us seemed to notice that it was zoned... I mean, that was an incorrect zoning at that point. They already had beer and they shouldn't have had any alcoholic beverage. And I guess we had our hands so full thinking of all this stuff and the owner didn't complain, so it just sort of happened. Well, when the owners first came, we looked at this and we thought this was really the wrong zoning for them. They're not going away. Let's put it this way – we don't want them to go away. So the hardship has really been created by the fact that we made a mistake in the zoning and I'm partially responsible too – I was on that committee. I guess I didn't really notice – there were so many other red flags, I didn't say, 'Hey, that's wrong, that's the restaurant'. It's already much larger than it should be. It already has beer. And then it got an expansion of nonconforming use. And then it got a liquor license. So, it's really kind of ridiculous to keep it at OR2 because that's not what it is. And I think at this point if we say well, we're not going to give you this, we're kind of saying to them, 'Well, go away, you've reached the limit. Go away.' We don't want them to go away because they really are an asset to the community and it's not a bad use – there's nothing wrong with this use and they've taken a really horrible, horrible fast food thing and are making it into something much more interesting than it is, so we would really like it to stay. I'd also like to address the variances. And that is we really support this front yard variance because we want things closer to the street. The post office next door, yes that's further back and it's got the parking in the front. Well you can't deal with the Fed's. We certainly didn't want that but they didn't care. It's different when you're dealing with your own city. But it's nice to have it closer. It's much better. And the side yard variances, well that's not a problem. This is a built up city and neighbors on the side aren't complaining. As far as the door, I personally have always hated... I hate something where I have to walk through the parking lot into a side door. But this is not the case here. The door is on the side, but there is a sidewalk going up to that door. It's a sidewalk and it's landscaped. So it's more like a front door set back. I never think of it as a side door and the reasons that the owners have given for doing it make sense. I think they know better how to deal with their business than I do. So as long as it's landscaped, you don't have to walk through cars to get to that door. We have no problem with that – we like the side entrance. Now, it comes to the parking variance – there's a tremendous amount of parking. The only time that all of those spaces would ever be full is when they have a party and they do have an arrangement with the office building next door. A lot of people walk to that restaurant. We meet our

neighbors there all the time. There is plenty of parking. I'm amazed that the students from the U don't park there, but they don't seem too.

President Martin: Now that you've mentioned it in public...

Florence Littman: Maybe they will. I shouldn't have said that. They'll have to put a chain over it and have somebody out there checking it like they do at the restaurants over on East Hennepin. But there's always parking there except when there's a party and they've taken care of it. And even so, even at a wedding or a party, people often carpool. You don't have to give the parking as if every seat is full all the time. I spoke with University United about this because they're very interested in parking and they gave me some information I'm sure you probably... it was new to me. There's a book written by a professor from UCLA and he talks about...

President Martin: The High Cost of Parking.

Florence Littman: Yes. It's a 59 dollar book. I haven't bought it. I'm going to see if I can get it from the library. But I think what he says is great. He says current parking requirements are often inflexible and generous, applied with little consideration to the geographic and demographic factors at each specific site. Parking requirements are based on parking generation studies that are mostly performed at new suburban sites with un-priced parking. These standards tend to be excessive in more accessible areas and parking requirements can typically be reduced 10 to 30 percent at appropriate sites that standards more accurately reflect parking demand. It also says... I don't know if you've read this... Urban planners set minimum parking requirements for every land use but the requirements often seem pulled out of thin air, based on studies that are poorly conceived. In turn, these faulty standards and policies are perpetuated as they are copied from one city to the next. The planning profession, in its eagerness to be comprehensive, has identified more than 600 uses, each with its own parking requirement. A gas station must provide 1.5 parking spaces per fuel nozzle; a mausoleum must provide 10 parking spaces per maximum number of interments in a one hour period. Why? Nobody knows. So, we think we know that there's enough parking and I really hope that you will pass this.

President Martin: Florence, you'll be delighted to know that the author of that book played to an overflow crowd at the APA conference. The room was packed to overflowing without parking requirements apparently. Others who wish to speak to item number 11?

Joseph Ring (101 Melbourne Ave. SE): I'm going to speak before you with two hats. The first hat I'm going to be wearing is as a business owner, neighbor across the street from Spencer at 2724 University Avenue SE at J Ring Glass Studio from 1985 until 2000. As Florence had pointed out, a number of establishments, national chains came in there and could not make a go of it. Spencer and his family came in, took a really poor property and put together a business plan that was just outstanding. It played to all the weaknesses and made it into a strength. It could appeal to the University faculty and students. Still, if there wasn't significant enough of those who were willing to go that far to make any of these other enterprises successful, the Prospect Park community would participate but it's not an exceedingly large community, so we could not survive solely on their business. And it also took advantage of their own Asian

community willing to come in on special parties and weddings, et cetera. And they took those three pieces and put it together and made it into an exceedingly thriving, wonderful business that was always a tremendous pleasure to watch it across the street. For somebody who has been in business for 30 years, I've seen a lot of them come and go and it's always a pleasure to see somebody who can put it together and make it work. The other nice accessory thing that they were able to do is that they have one of the few rose gardens that are included into a restaurant. They take tremendous care of their property, tremendous care of their customers. Some of those customers were our customers at that time and I think it's a real tribute to the uniqueness that we provide in the urban center when you have entities like this that take advantage of all of the mix that we have and are able to do this. So I would strongly wish you would support this on that basis. Now, that being said, I would like to change hats again and speak to you as president of Prospect Park East River Road Improvement Association. Florence has spoken very well in regards to the position of our organization, but there is a group within our community that has difficulty getting their message across. The Glendale community, we have a very sizable Somali population and resident and they love going to the U Garden and the main reason is great food, inexpensive, and they do not have to deal with the possible embarrassment or difficulty that they have in using the English language in ordering, in dealing with those issues, especially when they're with their other family members, especially with children. So if I can take the liberty in speaking for them that they would strongly like to see that enterprise be able to continue to prosper and grow. Thank you.

Christian Nederloe (IT Director, University of Minnesota Auxiliaries; 2701 Delaware Street ,not on sign-in sheet): I'm a property owner at 2701 Delaware Street, so on these maps, I have difficulty reading these maps, but I think our lot is highlighted there – we're right behind the gas station that's right across the street from U Garden. That was a row of HUD homes about 12 years ago. There were about 3 or 4 of them that were HUD and we were sandwiched in between the Glendale and the businesses there. We bought a 4-plex there and turned it around – around the same time U Garden about 12 years ago was purchased (I don't know the exact date) and has been turned around. U Garden, I can attest as someone who is a neighbor of the Glendale housing development and someone that has a 4-plex that rents (owner occupied) to many of the students there. U Garden has definitely been a big factor in the turn around in that area. So I know that I can't... I don't have the urban planning expertise to comment on where a door should be, I definitely can say this has been an exciting and very vibrant development and anything we can do keep you here would be fine.

Greg Simbeck (Ward 2 Council Aide): These folks have spoken very eloquently about their reasons and I just want to say that Council Member Zerby is in full support of this application and hopes you'll approve it. Thank you.

Jim McCarthy (Faculty member, University of Minnesota): I just want to add to the supportive voices for this. I knew it was Periwinkle's [tape unclear]. I went there. And they've taken this property and really have turned it into something special. Again, so many restaurants and so many businesses came through. And what they've done has just been terrific for the neighborhood. I also live in the neighborhood. Again, I don't know about all the where the doors should be and how close things should be. The property is always kept up extremely well

and that neighborhood strikes me, as has already been addressed, as being very mixed in terms of what's there. It adds value to the community in terms of providing a place to go. I personally would bring – if we had a place to have private meetings – I already do bring speakers there for lunch that we bring in – but if we had a place to have private meetings, we could have symposia there. We could have seminars and evening meetings and so on. For the cancer center, for the medical school, it would just be a tremendous addition to the area that way as well. I'm just in full support.

President Martin: OK, is there anyone who wants to tell us anything other than they're supportive and they think it's a great business and the neighborhood can't live without them? OK, I'm going to close the public hearing.

Commissioner Schiff: Madame Chair, I'm going to move the rezoning; move approval (Krause seconded).

President Martin: Discussion including findings please.

Commissioner Schiff: Madame Chair, this is close to another activity area; it's surrounded roughly on 3 sides by light rail, transit; the University of Minnesota, as we know, doesn't have any strong boundaries of where it ends. It is an institution and it's growing on both sides of the river. So I don't think we can, for here, draw a specific line to say this community activity area ends here. I think the line all the way from University Avenue to St. Paul is going to grow density in housing and future land use plan that we're doing for light rail would show this. Of course, we'll be doing amendments to our comp plan for those in the future, but we don't have them to cite today. Also, it's always been a commercial building. It's just not going to be converted to office anytime soon.

Commissioner Motzenbecker: I would like to point out to the Commissioners as well, a very successful example of a side entry on a community corridor is the Fuji Ya building on LynLake which has a side entry right now and is still a very popular and well-used establishment.

President Martin: Possibly in opposition to the code or whatever.

Commissioner Schiff: I think we'll debate that a little bit. I'll argue that that's not a side entry in a few minutes.

Commissioner Tucker: I wanted to ask a question of the woman claiming to be Florence Littman [laughter].

President Martin: You mean the Florence Littman who never supports a zoning change, that one? Who stole her?

Commissioner Tucker: I'm just wondering if PERRIA does think this entire area should be C3A in the future and you're prepared to support other rezoning requests for that same level.

Florence Littman: It would depend what's going on. We know there are going to be changes there and we just hope whatever is there is going to be compatible. Actually are talking about some sort of a transit overlay zone or something along there.

Commissioner Tucker: But certainly this rezoning does suggest that the activity area is extending.

Florence Littman: And it is.

President Martin: The motion is to approve the rezoning application. All those in favor of that motion, please signify by saying aye.

The motion carried 9 – 0.

Commissioner Schiff: Madame Chair, I agreed with a lot of what Florence Littman and a lot of other people have said. On the setback; however, the building on the corner is a rather substantial structure that's been around for a long time and likely will. With our streetscapes and development of University Avenue as a major corridor, I'm not as comfortable with a zig-saw pattern with our setbacks – going in and out, in and out. Sometimes within a small framework, that can create an interesting framework, but here I'm concerned it would be far too dramatic if one building – one of the more narrow ones in this area – suddenly jumps out so far. So I'll be open to other comments from Planning Commissioners but I'm not as comfortable... well, I'll say I'm not comfortable with the setback variance.

President Martin: The front one?

Commissioner Schiff: The front one. The side one is fine.

Commissioner Krause: Madame Chair, I'll offer my take on that issue. I'm finding a certain tension between the code requirement on the setback and then what I see in the neighborhood's planning which is talking about bringing these buildings to the street. And the fact that this is an area in transition – we are trying to create a different feel, more pedestrian orientation. So I find a little bit of tension there. And I guess you're right – this building for a period of time may look somewhat out of place. Maybe it's the first one and they're all going to follow. I don't know.

Commissioner Schiff: Well, they will follow only if they are torn down and rebuilt completely and these are substantial structures.

Commissioner Krause: Or add on.

Commissioner Schiff: Yeah, I mean it's not going to be economically feasible for the post office to add a little addition there with their parking. These are just substantial office buildings and I think you've got a character already to that side of the street. We should work with what's there rather than have one abnormal thing just jutting out there.

Commissioner Tucker: I would second what Commissioner Schiff is saying about the front setback. I think we do want to maintain that wall where it is very strongly established. If we were talking so much about setting a pedestrian friendly environment, we would also be moving that entry up to the corner and that doesn't seem to be the case. I think you could have all the way to the street setting a new tone and putting the door there or leave it back where it is and enter from the side. As to the side variance, that's already established basically. If we don't approve the front variance, that's moot, but if we do, it's of no consequence.

President Martin: We still don't have a motion.

Commissioner Schiff: I'll move to approve the side yard setback and move to deny the front yard (Tucker seconded).

President Martin: So you're upholding the staff recommendation for B, the front yard variance; and moving approval of the side yard variance.

Commissioner Schiff: Yes.

The motions carried 8 – 1 (LaShomb opposed).

Staff Orange [off microphone]: Commissioners, if you've denied the front yard, there isn't a side yard.

President Martin: It goes away. That makes it easy. So then we have a parking variance and a site plan.

Commissioner Schiff: Move the parking variance (Tucker seconded).

The motion carried 9 – 0.

President Martin: And that one, the findings would be what?

Commissioner Schiff: Access and proximity to future light rail transit and large commuter campus that currently has other parking options in the area.

Commissioner Krause: Also the complementary nature of the parking, the other parking uses in the area.

Commissioner Schiff: On the site plan, I certainly embrace the architecture. I think it's fun. But I do want to see the entrance closer to University Avenue. Fuji Ya is a recessed entrance that has even an indoor waiting area that's equal to the front line of the building. So this is not like Fuji Ya. There should be a corner entrance or some kind of recessed front entrance. Definitely want to see the window requirements upheld and the landscaping requirements, so I'll try it this way. I'll move approval of the site plan with conditions that the fenestration and landscaping

requirements are met and that an entrance or entryway is moved to the corner or the front (El-Hindi seconded).

Commissioner Tucker: How close to the corner is the corner in your opinion. Leave that to staff?

Commissioner Schiff: Good idea. Yes.

President Martin: Assuming the usual site plan standards would also be added on here. So why don't we leave this one to staff to work out.

Staff Wittenberg: If I could just state what those typically are. That would be completion of the site improvements within one year of the Planning Commission action. CPED staff review and approval of the final site plan, landscape plan, and elevations.

Commissioner Kummer: I thought I heard the applicant say that he was unwilling to move the side entrance. So there must have been a reason. I'm just curious what that reason is.

President Martin: Mr. Ung?

Spencer Ung: The reason for not moving it to the front is again because [of] customers eating without paying and running off. Also, staff is concentrated back, because of the existing building area right now, staff is concentrated in the middle of the restaurant. And it's hard to greet people in the front area when they're walking up in the corner when staff is mostly in front there. You can't concentrate on who paid and who didn't pay. That's what we concentrate on right now. People leaving checks on the table, people coming to the front and paying. With the addition there, you can have people just walking out. We can't concentrate on who paid for their bills or not.

President Martin: Mr. Ung, it seems from the site plan you've got you're expanding the building, you're doing this whole redesign, you could certainly have an entrance at the corner rather than down, even with a sidewalk, down on the side of the building.

Spencer Ung: The design of the building, currently the entrance is in the middle where the handicapped is also. And that's where we're taking the pictures that we mentioned. And you put the building on the corner entrance there. These are private parties, weddings and such, and they like to take pictures of the columns, the design. Lots of Asians do that, especially when you have the dragon and phoenix architectural design on there.

Commissioner El-Hindi: It seems to me like that issue is a design issue and a planning issue and also a staffing issue rather than it is a zoning issue or a side yard or a variance issue. It seems to me like there must be a solution that you can find through the design of the space internally. Whether you put the front reception area so you can control who walks in and out of the building in a certain way. As far as taking photos of the outside of the building, that seems to me like a reason that maybe is not as strong as the pedestrian issue from our standpoint – looking at the

pedestrian issues. That's really the main issue on the table rather than taking pictures in a wedding.

Spencer Ung: Also, the benefit of having it right in the middle is that commuters who are parking their vehicles and the pedestrians who are walking meet half way.

President Martin: You answered our question. Thank you.

Commissioner Tucker: I would just point out that we granted a parking variance partly on the use of transit which suggests entry from the street again. So that's why we are wanting that entrance much closer to the corner or at the corner.

President Martin: OK, so as I understand it, we have a motion now to approve the site plan with the usual conditions plus an expectation that the entrance would be on University, not on the parking lot. And the landscaping. All those in favor of that motion please signify by saying aye.

The motion carried 8 – 1 (Kummer opposed).

Director Sporlein: Madame President, before we leave this project, I just want to make sure we have our records straight on item number C, the variance, there was a motion to approve that,...

President Martin: But then we were told it went away.

Director Sporlein: But the action is before the committee and we need to do something with it because of the 60 day clock, so we either delete it from the agenda, or... I'd look to Jason to give us some direction.

Staff Wittenberg: [off-microphone]

President Martin: OK, it was part of the motion that was made.

Commissioner Schiff: So, since it was denied.

President Martin: No, your motion was to deny one and approve the second.

Commissioner Schiff: But it wasn't needed.

President Martin: Right, but we still voted on it.

Commissioner Schiff: I see. So we voted to approve it.

President Martin: We voted to approve it even though we don't need it.

Staff Wittenberg: So the Commission has acted on it.